

LICENSE PLATE AUCTION GROUP (LPAG)

1881 Pierce St., Lakewood, CO 80214

Boards & Commissions Conference Room

November 24, 2014

Minutes to the Meeting

Members in Attendance: Bobby Juchem, Maren Rubino, Bob Gall, Peter Pike, Mark Simon (via telephone), Gina Robinson (via telephone), TH Mack (via telephone).

Guests in Attendance: Chris Hochmuth – DOR (via telephone), Laura – Zim Consulting, Patricia Jaeger – (?) (via telephone), Kit Sage, LeeAnn Morrill – AG's Office (via telephone).

CONVENE: Bobby convened the meeting at 9:05 a.m. a quorum was not present various members of the committee sent reminder e-mails to those who were not present.

At 9:15 a.m. Bobby decided to move forward without a quorum and cover updates and announcements and when a quorum was finally present to go back and handle any business of the Group the required votes, notices, etc.

Zim consulting updates:

Marty couldn't be here but will email out copies of all the things Laura talked about:

- ✓ Laura reported that sponsor letters went out last week.
- ✓ The flyer is ready and she handed a copy out to everyone.
- ✓ Silent Auction Requests are going out next week.
- ✓ New Auctioneer is set – Kevin Rutter who has good connections since he auctions cars as well.
- ✓ Plates are set.
- ✓ Entertainer is set at \$3,000 (under the \$5,000 budget)
- ✓ Online registration starts on Friday afternoon.

Bobby summarized the flyer.

Gina Robinson joined the call.

Mark asked about how GOLDEN did at the 3rd party auction. Laura reported that it was either \$1,200 or \$1,500 she couldn't remember but would have Marty send it out.

Peter asked how he could get all of this information electronically. Laura stated, again that Marty would be emailing all of this information to the Group. Peter asked for an introductory email so he

could forward that around. Then he asked if there was enough time to send out all of this information to the clientele LPAG is looking for. Laura assured him there was. Peter was still concerned that there wasn't sufficient time; and wanted to know if anyone had bought tickets or sponsorships. Laura noted that the online registration had just started and she was not concerned, believed that there was plenty of time and continued to encourage the members of the group to reach out to their contacts.

Patricia asked for specifics about the marketing plan. Laura listed all the places and media outlets they are working with, commenting that Marty had the better answer. Patricia wanted the Marketing plan shared with everyone.

Bob asked what was going on with the sports teams, specifically the Broncos – was there any movement from them regarding the auction. Laura again, commented that her focus had been on the logistics of the event and that Marty would have to be the one to give a more thorough update on this.

Bobby summarized the information that the Group would be looking for from Marty:

- Introductory Letter/email
- Printer materials/flyers
- Update on the Broncos and sports teams
- Marketing Plan
- Ticket and sponsorship sales

Marty sent out an email last week with all the sponsorships and names on it, and Peter didn't understand what the purpose of this was. Laura responded that it was in response to a request that LPAG had made to know who was being contacted for sponsorships.

Mark asked if Marty had gotten a price for hosting the recordings of the meetings on the web site and assumed Laura didn't have it so asked if she would be sure that Marty obtained it and sent it out. She said she would.

Peter asked where the videos were. Laura would forward that request on as well.

Bobby asked for a motion on the minutes from September 29th and October 27th. Maren noted that she only had the minutes from 9/29, that 10/27s were not ready yet. Mark moved that the 9/29 minutes be approved, Gina 2nd – Motion passed.

Maren proposed approving the meeting schedule for the next year (all at 1881 Pierce St. 9-12):

- > 1/26/15
- > 2/23/15
- > 3/30/15
- > 4/27/15
- > 5/18/15
- > 6/29/15
- > 7/27/15
- > 8/31/15
- > 9/28/15
- > 10/26/15

> 11/30/15

> 12/28/15

Peter asked if the 3 hour meeting was still required. There was discussion about the sustainability portion of the meeting and the amount of time that took. There was general discussion about adjusting the agenda to suit.

Maren moved to approve the schedule, there were numerous 2nd's. Motion passed.

Event Planning: (Covered above)

Amending Term #10: LeeAnn asked to have this held over until the next meeting when she could have a more comprehensive draft for review. Maren asked to have it a week before that meeting so people could review it. LeeAnn thought that was fine, just reminded everyone that if anyone had questions that they are asked individually and not "reply all" so as to meet the open records issues. It was agreed and held over.

Restructure Update:

Bobby recapped an email sent by Zach regarding how LPAG might get restructured for efficiencies as well as policies and procedures and any overlap of other disability groups. They're looking at a third party to facilitate this. Gina added that she's the chair of one of the groups.

Bobby didn't feel comfortable in briefing on Zach's behalf. There are three options that they are looking at and Bobby wanted to wait until Zach could give the brief a full focus, so he wanted to hold off on this until Zach could present next month.

Gina continued by asking about the funding. The process(s) they are looking at with the third party facilitation requires funding and the other groups are moving forward with their funding. Bobby noted that Zach had not asked for a specific dollar amount. Gina reported that the Colorado Advisory Council voted for \$2,000 to be used for outreach and the third facilitator. Mark reported that the DBSCC voted for up to \$5,000 for the facilitator and for any public meetings that might be required.

Bobby asked if the Group and LeeAnn wanted to discuss this, asking if they had the statutory authority to do this and then if so how much. LeeAnn noted that the statute was not very discretionary. Mark asked about the spending of their administrative monies and about the loan proceeds. LeeAnn said she'd have to review the loan agreement to see if they could spend that money for this.

Administrative fees aren't really defined, but were usually considered a carve-out to use a small amount for actual administration and cautioned the Group about taking too broad a view of "administration". LeeAnn further suggested that a representative from each group meet and discuss the purpose and goals of this study and then agree on a split of the costs and then could meet the definition of administrative costs since one of the obvious scopes is to look at efficiencies. Bobby said that's exactly where they (the three groups) are. LeeAnn asked if there had been a bid. Gina talked about this noting that there were different structures to the bids depending on which strategy the groups decided to go. LeeAnn wanted to make sure the bids were shared with the Group so as to make an informed decision. Gina and Bobby would make sure this information got out to the voting

members of the Group. LeeAnn emphasized that this information should be shared prior to the next meeting so they could review it adequately. Bobby said he'd work with Zach to get it out.

Maren wanted it clarified that if the Group approved, spending money on this would indeed be part of Administrative Expenses. LeeAnn confirmed that this easily defendable.

Peter did not see the benefit of LPAG participation in this would be and asked for people to explain it. Gina answered that her group has legislative requirements, which LPAG doesn't so they can help with getting appropriate Legislation done by giving LPAG legislative input.

Bobby believed that Zach's email covers this more in-depth so either that going out to everyone or Zach's presentation next month should clarify this. It was agreed.

Registration Number Discussion:

Peter wanted to make sure that a good list is being generated for the 6 month request. Peter asked if everyone got the list from Marty. Seemed everyone did, but most hadn't had the chance to review. Bobby asked that everyone review the list and be prepared to discuss it for the December meeting. Make sure all requests for reservation get forwarded to Marty.

Mark asked for clarification that the list of 512 they got was for those plates that had expired for 13+ months since the last request (April 2014). Yes it is.

Peter asked if they were passed their 6 month request. Maren noted that you can go over, just not less. So for example you can't request every month, but could request on the 7th month or 8th, if you had missed the 6th. At Bobby and Peter's request Maren added this to the agenda for December. Maren wanted to have everyone's suggestions to Marty no later than 12/19/2014 so that the entire list could then be disseminated to the Group for review for the 12/29 meeting. It was agreed.

Peter asked where LPAG was with on-line auctions. Has the patent issue been dealt with and could the group move forward with them independent of live events.

LeeAnn gave an update on the Patent issue. There was a phone call with LeeAnn and Devin (of the AG's office) with Marty and Jeff (of Handbid) to clarify what the LPAG on-line auction process was. Then there was phone call with LeeAnn and Jeff with Mr. Barnett's attorney, Mr. Schwartz. The AG's office laid out what LPAG was doing including the Terms and Conditions and asked Mr. Schwartz what the infringement was, Mr. Schwartz couldn't detail out any specifics. The AG's office pointed out that in the LPAG process there is no requirement to register the winning configuration. Mr. Schwartz does not seem to grasp the concept. The AG's office also pointed out that this was a fundraising project for the disabled community and not just a way to sell personalized plates to the general public. LeeAnn wanted permission to share the Terms and Conditions with Mr. Barnett through his Attorney. She believed it would help them to understand the LPAG process.

TH asked if Mr. Barnett had released his process to us for review. LeeAnn said they had through the patent process.

Mark believed they had patented a concept and didn't think he could do that. Additionally that LPAG doesn't have an escrow agent that the money flows straight to the State. LeeAnn agreed.

Peter didn't hear an answer to his question of can LPAG move forward with on-line auctions without a live event. LeeAnn spoke further that it isn't necessarily about the Groups comfort level with moving forward, but also about the Group's vendor's willingness to move forward. There is nothing to prevent Mr. Barnett from suing the Group and the vendors who will have to defend themselves. Mark reminded everyone that they had discussed having LPAG indemnify the Vendors. LeeAnn noted that she had not changed her position that the State, universally, does not indemnify vendors. Mark asked about hiring a vendor to build a site, that LPAG would then own, having OIT do it, or purchasing a license to a canned website/software to do auctions, thus eliminating vendors. Those are possibilities.

Mark was remembering that he thought Marty thought he could find a vendor who could build a site/auction process who would be willing to move forward.

Maren brought the discussion back the releasing the Terms and Conditions to Mr. Barnett and his attorney. LeeAnn did not believe there was any downside to it, she just needed permission. Bob asked what Handbid's comfort level was. LeeAnn believed they were not willing to move forward unless they were indemnified.

Bob asked about primary and secondary claims and how this came into play. LeeAnn wanted to defer that to Devin.

Bobby asked for a motion on the Terms and Conditions. It was moved by TH and Maren 2nd.

- Gina – Yes
- Maren – Yes
- Peter – Yes
- Mark – Yes
- Bob – Yes
- TH – yes
- Bobby – Yes
- Motion passed.

Bob asked about the minimum reserved bids on the plates A-Z. Bobby thought Zim would set this based on previous discussions LPAG had with them. Bob questioned this again saying he believed it should be LPAG's responsibility. TH reminded the group that this had been delegated to Zim. Bob was still confused. Maren suggested that when Marty comes to the next meeting he can confirm what the minimum bid(s) will be and if the Group isn't comfortable then they can change it. Peter thought in October that the "A" plates had a minimum set of \$98 or \$99,000. Peter suggested that it be an agenda item for the December meeting. TH wanted to set "B" plates and below at \$500 and "A" plates and above are set by LPAG with collaboration with Zim.

Mark brought up the fees for added options such as embossed plates, retired backgrounds and how did LPAG want to do that as this was a potential to make more money and should he get legislative authorization to do so.

Maren stated that the statute authorized the group to auction registration numbers, and that what Mark is asking for – added fees, is beyond the Group's current scope and would require legislation, which brings the Group back to a discussion of current policy and what Zach is trying to deal with in the re-structuring.

Bobby noted that for the members of the Group who represent the various State Agencies that this would have to be vetted through their chains of command before they could approve seeking legislation.

Mark was asking if the Group wanted to do this. If they did, they needed to figure out what they needed and how they might want to do it, so they have time to get a bill ready to move forward. TH asked if there was anything from prohibiting the Group from making a motion to pursue this. Mark answered that he didn't think there was anything preventing this. TH re-directed the question to LeeAnn. LeeAnn answered that she still isn't clear how the Group suggests or promotes its enabling statute. Does it go through the Governor's office, she wasn't sure. She had some concerns about Mark acting as the Groups legislative liaison as he is not authorized and cannot be authorized by the Group to do so. She did think it is within the Groups powers to try to make changes such as adding the fees they just had to figure out what the appropriate way to do it was.

TH said that if Mark would make the motion he'd 2nd it. Bobby interrupted that there were three agencies/people in the room that would have to abstain from the vote as they have no direction from their agencies. Mark said that he understood that they could move forward with legislation but was suggesting that they just explore the option. Bobby asked for something in writing so he could present it. He was not willing to proceed without it as his chain of command would want to know what the specifics were.

Mark asked how to proceed; how to explore the concept. Bobby asked Mark to spell it out specifically, how the money will come back, what it will be used for, in broad strokes so there wasn't confusion about what was being explored. Mark believed that there was a cost to LPAG for authorizing a retired background. Bobby believed that Mark was trying to insert LPAG into a process that was between either the auction winner and DOR or the auction winner and DOC and that there was no cost to LPAG for simply authorizing the use of a background. Mark figure there would be administrative costs to LPAG for setting up the authorization, but more importantly did LPAG want to make money for added features on plates. Bobby summarized by saying that Mark wanted to charge for the privilege of having a retired background on a plate above and beyond the actual cost of producing the plate. Mark said yes. Bobby was sure he would have to have direction from his chain of command for the concept.

Gina and Maren agreed with Bobby. Mark said he'd write something up and get it out and asked for those people to bring back direction at the next meeting, especially since there may be restructuring legislation.

Peter asked if there was going to be a proposal for an agreement where LPAG absorbed the costs of putting the configuration on a retired/alternative materials background if the winner had bid more than \$100,000 (for example) could the State Agency people vote on that at this meeting or would they have to take it back and get direction. Maren asked a couple of clarifying questions. There was disagreement about what "sell" [referring to C.R.S. 42-1-403(5)(l)] meant. Maren asked LeeAnn to

review that and give an opinion as to what that might actually mean. LeeAnn believed it to mean that a winner could choose any of the alternative materials or backgrounds, if approved by the DMV, and that the winner would have to pay the DMV for whatever additional fees might be required to do that. LeeAnn further believed that LPAG would need legislation to charge an additional fee or surcharge above that for the privilege of using the alternative materials/backgrounds. Maren added that DOR can only charge the actual costs of manufacturing, that DOR does not get to charge a profit. TH thought he paid an extreme amount for the personalized plates. Maren explained the difference between the cost of the plate and the taxes and fees that are charged at the Counties. Mark continued to believe that the statute allowed LPAG to recoup costs charged to DMV or Corrections for the cost of producing the alternative materials plate, and they could collect fees beyond the cost of the materials. He also pointed out that there was no process set up for doing that and that DOR needed work with LPAG to set something up to do so.

LeeAnn pointed out that this part of the statute is inconsistent as most of the enabling statute makes the distinction of talking about the Registration number rather than the plate and that this had been a key distinction in the issue regarding the patent claim (registration number vs. plate). Further she stated that, "it's only if the person decides to register the number to a vehicle and have a plate issued, that the person works directly with the DMV, and that there is no, sort of communication or back and forth between the DMV and the Group about that registration number once it's been won and paid for by the winning bidder" pointing out that if the Group was going to get into the business of the actual manufacturing of the plates and the costs, then the potential is to bring LPAG within the scope of the patent. Mark thought that LPAG was selling the right to use a number and selling the right to have alternative materials or backgrounds used if chosen.

Peter confirmed that his in an agenda item for the next meeting.

Public Testimony:

Kit Sage – Commented that porcelain plates no longer conform to current standards, which they must, and that this can't be done so that really ends that discussion. As for leather, the same applies as leather never really existed before the State issued plates. Some Cities issued leather plates prior to the State requiring it so that ends that discussion. He thought that this really should be left to DOR-DMV to determine and not LPAG. Maren referred back to statute and stated that they'd have to work with law enforcement, and Corrections to sort that out. Mark noted that the statute didn't require materials historically issued by the state, just alternative backgrounds and that we lived in the age of technology and surely holograms could be laminated to the surface of any of these materials. This is why Mark wanted to investigate this now so that LPAG would know what the options were and who could do it so that LPAG wasn't trying to figure it out later because someone asked for it. TH agreed.

Patricia wanted to underline her concern about the marketing plan and that it should be State and Nationwide. There needed to be build up for the event and would need more than just social media. TH agreed, there needed to be greater efforts other than social media. Laura would make sure that Marty sent out the marketing plan as soon as possible.

Bob noted that Tom Cruise was selling his Colorado estate for \$59 million and that LPAG should approach that realtor and offer a license plate as an incentive and as a way to reach out to those sorts of people.

Peter offered another antic dote as to why we were all involved with LPAG

Bobby adjourned the meeting at 11:35 a.m.

Respectfully submitted
Chris Hochmuth
Administrative Services Supervisor
Title and Registration Sections
Department of Revenue